IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE NINETEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 13309 of 1999

Between:

The Depot Manager, A.P.S.R.T.C.,
Sathupalli Depot.

..... PETITIONER

AND

1 T.V.P.Rao, S/o Moses,
R/o H.No.11-10-653, Khammam - 507 001.
2 The Industrial Tribunal cum Labour Court,
Warangal.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate writ, direction or order particularly a writ in the nature of a writ of certiorari calling for the records pertaining to the award in I.D.No.70/95 of the Industrial Tribunal cum Labour Court, Warangal dt.25.7.98 and published on 16.12.98 and quash the same as being illegal, arbitrary and unjust and pass all such other orders as may be deemed just and necessary in the circumstances of the case.

Counsel for the Petitioner:SMT.G.JYOTHI KIRAN

Counsel for the Respondent : MR.G.RAVI MOHAN FOR R

GP FOR LABOUR FOR R

The Court made the following :

ORDER:

This writ petition is filed by the Depot Manager, A.P.S.R.T.C., Sathupalli Depot (Management), being aggrieved by the award passed by the Industrial Tribunal-cum-Labour Court at Warangal, in I.D.No.70 of 1995, dated 25-7-1998, wherein, the claim petition filed by the respondent No.1 under Section 2-A (2) of the I.D.Act was answered in favour of the workman directing the management to reinstate the first respondent into service with continuity of service and full back wages and all other attendant benefits.

It is the case of the petitioner that the respondent No.1 was appointed as Driver in A.P.S.R.T.C., and was attached to A.P.S.R.T.C Bus Depot-Suthupally. While so, on 15-4-1994, due to the negligence of the 1st respondent, while he was driving the vehicle bearing Regd. No. AEZ 8252, on the route Sathupally to Nuzveed/Vissannapeta, the vehicle ran over a man aged about 60 years, who died on the spot, therefore, a charge sheet was issued and after conducting a regular enquiry into the matter, the respondent No.1 was removed from service of A.P.S.R.T.C., w.e.f., 19-7-1994. Aggrieved by the same, the 1st respondent preferred an appeal and the same was rejected on 14-2-1995. Therefore, he has filed a petition under Section 2-A (2) of the I.D.Act., before the Industrial Tribunal-cum-Labour Court and the same was allowed.

According to the petitioner, the lower Court, without properly appreciating the facts and circumstances of the case, erroneously held that the driver of the bus was not guilty of the charge and the punishment of removal from service is illegal and the respondent No.1 is entitled to reinstatement with continuity of service with full back wages, including all other attendant benefits. Hence this writ petition.

A detailed counter affidavit has been filed by the 1st respondent denying the allegations made by the petitioner-A.P.S.R.T.C., and supporting the award passed by the Industrial Tribunal-cum-Labour Court at Warangal.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the impugned award and other material available on record.

At the outset, I am of the opinion that the Labour Court, though rightly held that the 1st respondent is entitled to reinstatement with continuity of service but erred in granting full back wages, for the period during which 1st respondent was out of service. The Labour Court simply carried away by the statement of the passengers' that the driver started the bus from Hanumanthulagudem stage, after the service conductor had locked the door of the bus and given signal, and further the record proves that when the bus which was driven by the 1st respondent-workman was in motion, one old man who was physically handicapped came from behind the bus and made an attempt to catch the closed door of it and slipped.

The lower Court ought to have seen that lack of anticipation results in failure to take precaution while negotiating the bus in a village.

Regulation 28 (ix) (a) and (b) of the A.P.S.R.T.C Employees (Conduct) Regulations 1963, contemplates that gross negligence resulting in or likely to result in serious loss to the corporation or inconvenience to the public or both; and also negligence of duty resulting in or likely to result in danger to the lives of employees or of their persons or both. Further, the strict rules of evidence as applicable in a criminal case are not applicable to the disciplinary proceedings. The allegations contemplate conducting an enquiry into the negligence on the part of a driver and this is a case where the bus halted at the village bus stop and may be after closing the door, the old physically handicapped person approached before starting the bus and the bus driver is supposed to take certain precautions. Admittedly, from the circumstances of the case, it can be easily inferred that particularly the dead person being physically handicapped, the respondent No.1 was expected to take certain precautions, while, moving the bus whether anybody is following the bus. Such a precaution was not taken and therefore, the accident occurred.

Therefore, I am of the view that though the mis-conduct on the part of the

respondent No.1 is proved, the labour Court has taken erroneous view that the respondent No.1 was not found guilty of the charges. Therefore, the findings of the labour Court that the respondent No.1 was not guilty is not correct and the appreciation of the evidence is not proper. The petitioner is guilty of the charges.

However, I am of the opinion that the punishment of removal from service for the mis-conduct proved against the respondent No.1 is shockingly disproportionate. In this case the petitioner was also once censured for causing damage to the vehicle. Therefore, I am of the opinion that the order passed by the labour Court is liable to be modified to the following extent:-

“The workman is entitled to reinstated with continuity of service and other attendant benefits but only with 50% of the back wages”

On 01-07-1999, at the time of the admission of the writ petition, this Court granted stay in W.P.M.P.No.16291 of 1999, on condition that the petitioner-corporation deposits half of the back wages within four weeks. Subsequently, the petitioner-corporation deposited half of the back wages. On 30-12-1999, vacate stay petition filed by the first respondent in W.V.M.P.No.2859 of 1999 this Court permitted the first respondent to withdraw the half of the back wages deposited by the petitioner-corporation without furnishing any security.

Accordingly, the writ petition is partly allowed. No costs.

_____

19th July, 2005.

mrb

To

1 The Industrial Tribunal cum Labour Court,
Warangal.

2. 2 CD copies